

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EDWARDS TERRY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:16CV00331 ERW
)	
LT. CLARK, et al.,)	
)	
Defendants.)	

MEMORANDUM & ORDER

This matter comes before the Court on Plaintiff's Motions to Appoint Counsel [ECF No. 41, 45], Plaintiff's Motion for Subpoenas [ECF No. 46], and Defendants' Motion to Compel Directed to Plaintiff [ECF No. 44].

A. Motions to Appoint Counsel

The Court has reviewed the pleadings in this matter and is of the opinion the appointment of counsel should be denied. Plaintiff has not shown he made diligent efforts to obtain legal counsel, nor has he shown legal counsel is necessary. Plaintiff is granted leave to refile a motion at a later date.

B. Motion for Subpoenas

Plaintiff seeks subpoenas for medical records from SSM Health, and testimony from the following individuals: Dr. Andrew Krieger, Dr. Nicholas Watson, an unnamed St. Louis Metropolitan Police Officer, an unnamed paramedic from the St. Louis Fire Department, and Linda Word, RN.

The Court has discretion to grant or deny subpoenas for indigent parties at the expense of the Government. *Williams v. Carter*, 10 F.3d 563, 566 (8th Cir. 1993). "This power should be

exercised to protect the resources of the Court and the Marshals Service, and to prevent harassment and undue expense of other parties and non-parties.” *Fernandez v. North Dakota*, No. 1:12-CV-00161, 2013 WL 6710636 at *1 (D. N.D. Dec. 18, 2013) (citing *Stockdale v. Stockdale*, 4:08-CV-1773 CAS, 2009 WL 4030758 (E.D. Mo. Nov. 18, 2009)). Courts generally “consider factors such as the relevance and materiality of the information requested and the necessity of the particular testimony or documents to proving the indigent’s case.” *Stockdale*, 2009 WL 4030758 at *1. The Court may deny a request for a subpoena if it is frivolous, immaterial or unnecessary, unduly burdensome, would result in costs the indigent cannot provide, or is otherwise unreasonable. *Id.*

The Clerk of the Court will be directed to send Plaintiff six blank subpoena forms. Plaintiff may fill out the forms and return them to this Court for service on non-parties located in this district, or to another federal district as appropriate. Plaintiff should not sign the subpoenas, which may be signed by the Clerk after they are returned to the Court. Plaintiff’s current motion for subpoenas does not contain sufficient information for the Court to determine whether the subpoenas are relevant, necessary, and not unduly burdensome. Therefore, Plaintiff is directed to submit a memorandum with the filled out subpoenas which explains for each subpoena (1) why the documents he seeks are relevant to his case, (2) why he believes the entity or individual subpoenaed has relevant documents or testimony, and (3) how he will provide the necessary costs, if any, related to the productions. The Court will review Plaintiff’s memorandum and will then determine which subpoenas, if any, should be signed by the Clerk of the Court and issued. Plaintiff is cautioned he must comply with Federal Rule of Civil Procedure 45.

C. Defendants’ Motion to Compel Directed to Plaintiff

Defendants seek an order compelling Plaintiff to submit to Defendants initial disclosures including a list of persons having knowledge or information of the facts giving rise to Plaintiff's claim, including addresses, and all documents Plaintiff believes mention, relate to, or in any way support his claim.

Pursuant to Federal Rule of Civil Procedure 26 (a)(1)(A), a party is required to provide to other parties certain initial disclosures include the names and addresses of any individuals likely to have discoverable information and any documents the party has to support his claim. Plaintiff is ordered to provide the information requested by Defendants, to Defendants, within thirty days of this order. The Court will permit the parties to amend the Case Management Order to extend deadlines due to the Court's decisions in this order.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motions to Appoint Counsel [ECF No. 41, 45] are **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Subpoenas [ECF No. 46] is **held in abeyance**.

IT IS FURTHER ORDERED that Defendants' Motion to Compel Directed to Plaintiff [ECF No. 44] is **GRANTED**.

So Ordered this 23rd day of November, 2016.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE